

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
(CENTRAL DIVISION)

ELIZABETH R. STEFFENBERG,
Plaintiff

v.

T. GENE GILMAN, STEVEN GILMAN,
THE GILMAN INSURANCE
AGENCY, INC., DAVID M. SCOLL,
ARBOR SECURITIES, LTD.,
ALLIANCE INVESTMENT
MANAGEMENT, COMMONWEALTH
FINANCIAL HOLDINGS INC.,
FINANCIAL LINKS, INC.,
T. GILMAN & CO., LTD.,
FIRST ALLIED SECURITIES, INC.,
PENSON FINANCIAL SERVICES, INC.,
AVIVA LIFE INSURANCE COMPANY,
TRADETEK, LTD., and TRADETEK, LLC,
Defendants.

CIVIL ACTION NO.

NO. 04-40113-FDS

Defendant Aviva USA Corporation's Statement Pursuant to Local Rule 16.1

The defendant Aviva USA Corporation ("Aviva") hereby submits this Statement pursuant to Local Rule 16.1. Aviva submitted to the plaintiff Elizabeth R. Steffenberg the content of this Statement for inclusion in the Joint Statement filed by the plaintiff and defendant David M. Scoll. The plaintiff would not agree to include Aviva's submission in the Joint Statement. Aviva was, therefore, forced to file this separate submission.

Aviva is currently not in a position to agree or disagree to the agenda or scheduling order proposed in the plaintiff's and defendant Scoll's Joint Statement Pursuant to Local Rule 16.1 as plaintiff is considering whether to dismiss her claims against Aviva. Plaintiff has agreed that

Aviva need not file a responsive pleading or otherwise participate in discovery pending such consideration.

By way of background, the plaintiff has asserted several general claims against Aviva, none of which are supported by any specific factual allegations. The thrust of the plaintiff's Complaint is that the defendant Gene Gilman diverted her investments to offshore accounts. Gilman allegedly used a number of the entities, not including Aviva Life, to perpetrate the alleged diversion. The plaintiff makes no factual allegation that Aviva diverted her investments or in any way perpetrated the diversion.

Aviva is an insurance company that sells life insurance, fixed annuities and structured settlements. Aviva has no involvement with Mr. Gilman regarding the sale of securities or financial investment advice and has no knowledge of any diversion of the plaintiff's investment funds. In fact, Aviva's only involvement with respect to the plaintiff is that it issued her husband a life insurance policy and, upon his death, wired the death benefit funds to an account in accordance with the plaintiff's instructions.

After Aviva removed this case to federal court, the plaintiff dismissed the RICO count against Aviva and agreed to consider dismissing all of the remaining counts against it. To that end, Aviva informally provided certain requested documents to plaintiff's counsel. These documents were not produced as part of any formal, automatic disclosure or discovery response. Through these informal steps, Aviva has not been forced to incur unnecessary attorneys' fees.

If the plaintiff pursues her claims against Aviva, Aviva will need a minimum of 20 days to serve a responsive pleading and appropriate time after serving its responsive pleading to provide initial disclosures and participate in discovery.

Respectfully submitted,

AVIVA LIFE INSURANCE COMPANY

By its attorneys,

_____/s/Rhonda Rittenberg
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